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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,854	06/27/2003	William A. Groll	916-030447	7107
28289	7590	04/06/2005	EXAMINER	
THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219			ZIMMERMAN, JOHN J	
			ART UNIT	PAPER NUMBER
			1775	

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/607,854

Applicant(s)

GROLL, WILLIAM A.

Examiner

John J. Zimmerman

Art Unit

1775

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## FIRST OFFICE ACTION

### *Information Disclosure Statement*

1. The Information Disclosure Statement received July 26, 2004 has been considered. An initialed form PTO-1449 is enclosed with this First Office Action.

### *Claim Rejections - 35 USC § 102/103*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Bricmont (U.S. Patent 4,257,549) or Yamane (Japanese publication 09-168875).

5. Bricmont discloses cladding cold rolled steel with 1 mil (0.001") and 2 mil (0.002") thick aluminum foils (e.g. see Example, column 4). Cold rolled steel is a ferromagnetic material. Clad aluminum foil is a "decorative" wrought metal layer. Yamane discloses cladding low-carbon steel (e.g. see paragraph [0005]) with 70  $\mu\text{m}$  (0.0026") thick aluminum foils (e.g. see paragraph [0030]). Low-carbon steel is a ferromagnetic material. Clad aluminum foil is a "decorative" wrought metal layer. Regarding the recitation of "induction cookware" in the claims, no particular structure is required of "induction cookware" and therefore any reasonable configuration that can be used for cookware, e.g. sheet, strip, bowl, etc. . . , meets this limitation. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963). In addition, the recitation has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Art Unit: 1775

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Miller (U.S. Patent 3,490,126).

7. Miller discloses making cookware by cladding ferritic stainless steel (e.g. see column 2, lines 62-68) with 0.0002-0.002" thick nickel layers (e.g. see column 2, lines 45-54). Clad nickel is a "decorative" metal layer.

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Ulam (U.S. Patent 4,646,935).

9. Ulam discloses making induction cookware by cladding a carbon steel core with outer stainless steel layers wherein the total thickness of the three layers is between 0.015-0.050 inch and the thickness of each of the stainless steel layers is ten to twenty percent of this total thickness (e.g. see column 3, lines 9-13; Figure 2). Carbon steel is a ferromagnetic material. Clad stainless steel is a "decorative" metal layer.

10. Claims 1-8 are rejected under 35 U.S.C. 102(a) as anticipated by Koma (Japanese publication 2002-017560).

11. Koma discloses rice cooker induction cookware wherein the ferritic stainless steel layer (10) is clad with aluminum layers or copper layers (11a, 11b) in thicknesses of 18  $\mu\text{m}$  (0.0007") and 28  $\mu\text{m}$  (0.0011"), respectively (e.g. see paragraph [0023], Figures 2a, 2b). Anodization for

Art Unit: 1775

appearance is disclosed (e.g. see paragraph [0005]). A protective polyester coating (12) would be considered non-stick.

12. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter (U.S. Patent 4,705,727).

13. Hunter discloses making induction cookware by cladding a ferritic stainless steel core with outer austenitic stainless steel layers of thicknesses "up to about 0.005 inches" (e.g. see claim 1). The austenitic stainless steel thickness range of Hunter encompasses the claimed thickness range for the cladding material. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use austenitic stainless steel cladding thicknesses over the entire thickness range disclosed by Hunter because Hunter discloses that such thicknesses are part of his invention and would be useful in making induction cookware.

Although Hunter discloses preferred thickness ranges of 0.004-0.005 inches for the austenitic stainless steel layers (e.g. see claim 3), Hunter discloses and claims thickness ranges of "up to about 0.005 inches" and is not held to only his preferred embodiments. Ferritic stainless steel is a ferromagnetic material. Clad stainless steel is a "decorative" metal layer.

14. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ulam (U.S. Patent 4,646,935).

Art Unit: 1775

15. Ulam discloses making induction cookware by cladding a carbon steel core with outer stainless steel layers wherein the total thickness of the three layers is between 0.015-0.050 inch and the thickness of each of the stainless steel layers is ten to twenty percent of this total thickness (e.g. see column 3, lines 9-13; Figure 2). Carbon steel is a ferromagnetic material.

Ulam further discloses that an exterior layer of copper may be used over or in lieu of the stainless steel outer layer (e.g. column 4, lines 45-50). Ulam may differ from the claims in that Ulam may not disclose the thickness of such a copper outer layer, but it would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the thickness of such a layer so that it would be thin enough so as not to interfere with the induction function of the carbon steel layer while being thick enough to withstand wear that occurs to the outer layer of cookware. While Ulam may not disclose using an anodized aluminum outer layer as the exterior layer of his cookware, the examiner notes that anodized aluminum is one of the more common exterior finishes now used in cookware and anodized aluminum would be understood by one of ordinary skill in the cookware art to be an alternative exterior cookware material to stainless steel or copper. In view of the fact that Ulam allows for an exterior ply of copper would be understood by the skilled artisan to clearly allow for other common cookware exterior finishes such as anodized aluminum. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an exterior finish for the cookware of Ulam that would match current common cookware finishes since Ulam clearly allows for alternative exterior finishes to stainless steel and anodized aluminum is one of the more common exterior finishes now used. While Ulam may not disclose using a nonstick inner layer on his cookware, such nonstick finishes are now conventional for cookware in order to make it easier to clean and therefore it

Art Unit: 1775

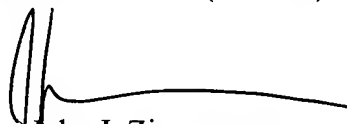
would have been obvious to one of ordinary skill in the art at the time the invention was made to apply a nonstick surface to the inner layer of Ulam's cookware in order to make the cookware more acceptable to those consumers who value cookware that is easier to clean.

### *Conclusion*

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The additionally cited references serve to further establish the level of ordinary skill in the art at the time the invention was made.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Zimmerman whose telephone number is (571) 272-1547. The examiner can normally be reached on 8:30am-5:00pm, M-F. Supervisor Deborah Jones can be reached on (571) 272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John J. Zimmerman  
Primary Examiner  
Art Unit 1775

jjz  
April 4, 2005